

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

STATE OF OKLAHOMA, ex rel.)	
W. A. DREW EDMONDSON, in his capacity as)	
ATTORNEY GENERAL OF THE STATE OF)	
OKLAHOMA and OKLAHOMA SECRETARY)	
OF THE ENVIRONMENT C. MILES TOLBERT,)	
in his capacity as the TRUSTEE FOR NATURAL)	
RESOURCES FOR THE STATE OF OKLAHOMA,)	
)	
Plaintiff,)	
)	
vs.)	05-CV-0329 GKF- PJC
)	
TYSON FOODS, INC., TYSON POULTRY, INC.,)	
TYSON CHICKEN, INC., COBB-VANTRESS, INC.,)	
AVIAGEN, INC., CAL-MAINE FOODS, INC.,)	
CAL-MAINE FARMS, INC., CARGILL, INC.,)	
CARGILL TURKEY PRODUCTION, LLC,)	
GEORGE'S, INC., GEORGE'S FARMS, INC.,)	
PETERSON FARMS, INC., SIMMONS FOODS, INC.,)	
and WILLOW BROOK FOODS, INC.,)	
)	
Defendants.)	

**PETERSON FARMS, INC.'S NOTICE PURSUANT TO LCvR7.2 (n)
ON [DKT#1659] THE STATE'S OBJECTION TO ORDER
GRANTING MOTION TO COMPEL DISCOVERY OF PETERSON FARMS
[DKT#1463] AND ORDER DENYING RECONSIDERATION THEREOF [DKT#1629]**

Defendant, Peterson Farms, Inc. ("Peterson"), hereby provides notice to the Court pursuant to LCvR 7.2 (N), and further moves this Court to set a hearing on [Dkt#1659] *State's Objection to Order Granting Motion to Compel Discovery of Peterson Farms [Dkt#1463] and Order Denying Reconsideration Thereof [Dkt#1629]*. In support of its Motion, Peterson will show the following:

1. On September 19, 2007, Peterson Farms filed its *Motion to Compel With Regard to Plaintiffs' Agency Privilege Logs* [Dkt # 1276].

2. On January 16, 2008, after reviewing the parties' briefs and hearing arguments on the *Motion*, Magistrate Joyner entered his *Opinion and Order* [Dkt # 1463], wherein the Magistrate found that:

- a. Oklahoma law applies to the attorney-client privilege claims made by the State on its privilege logs in this matter;
- b. Peterson had established special need for the documents on the State's privilege logs for which the State had asserted a work product claim pursuant to Fed.R.Civ.P. 26(b)(3) and Fed.R.Civ.P. 26(b)(4); and
- c. The request for *in camera* review for certain documents identified by the State on its privilege logs was moot due to the Magistrate's rulings on work product and attorney-client privilege.

3. On January 28, 2008, the State filed its *Motion for Reconsideration of Court's Opinion and Order (Dkt # 1463)* [Dkt # 1486].

4. On March 14, 2008, Magistrate Joyner entered his *Opinion and Order* [Dkt.#1629] denying the State's *Motion to Reconsider*.

5. On March 27, 2008, the State filed its *Objection to Order Granting Motion to Compel Discovery of Peterson Farms [Dkt#1463] and Order Denying Reconsideration Thereof [Dkt#1629]* [Dkt #1659].

6. On April 14, 2008, Peterson filed its *Response to the State's Objection to Order Granting Motion to Compel of Peterson Farms [Dkt#1463] and Order Denying Reconsideration Thereof [Dkt#1629]* [Dkt #1679], and on April 28, 2008, the State filed its Reply [Dkt #1690].

7. The *State's Objection* has been fully briefed, and it is ripe for determination. Based upon the description of the documents identified on the various privilege logs of the

State's agencies, it appears the information that was the subject of Peterson's Motion were agency documents that relate to the potential contribution of nutrients in the Illinois River Watershed by individuals, entities and State agencies. Thus, these documents are vitally important to the defenses asserted by the Defendants in this matter, and may contain documents Defendants will seek to introduce at the trial of this matter.

8. The discovery period in this matter ended April 15, 2009 pursuant to the Court's Scheduling Order in this matter. [Dkt #1658].

9. The Court has set the date for Final Exhibit List and exchange of exhibits for trial as July 1, 2009 [Dkt32049]

10. The date for trial in this matter has been set for September 21, 2009 [Dkt#2049].

Recognizing the voluminous motions and other documents, which have been filed in this matter since April 2008, and which have demanded the Court's attention, Peterson respectfully submits its Notice to this Court pursuant to LCvR 7.2(n) that this motion has been pending for more than ninety (90) days. Furthermore, Peterson respectfully requests the Court over-rule the *State's Objection* or in the alternative set a hearing regarding this matter.

Respectfully submitted,

By /s/ Nicole M. Longwell

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CERTIFICATE OF SERVICE

I certify that on the 1st day of July, 2009, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

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I also hereby certify that I served the attached documents by United States Postal Service, proper postage paid, on the following who are not registered participants of the ECF System:

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